

Remarks/Arguments:

1. Claims 9-12 remain pending.

2. Claim 12 is currently amended to refer to only one claim. The amendment makes no substantive change to the subject matter. Claim 23, in section (d), is amended to describe the claimed polynucleotide as encoding a polypeptide that mediates, in HEK-293 cells transfected with and expressing said polynucleotide, a specific, neuromedin U-induced increase in intracellular calcium following contact with neuromedin U. Support for the amendment to claim 23 is found in the specification, for example, at page 74, line 26, to page 77, line 5. Accordingly, no new matter is added by these amendments.

3. Enablement.

Claims 9-12, 23, and 32 stand rejected, under 35 U.S.C. § 112, first paragraph, for lack of enablement.

The Examiner rejects claims 9-12 and 23 for lack of enablement with respect to polynucleotides having at least 95% identity to disclosed sequence, based on the argument, as stated in the Office Action of September 17, 2003, that the specification fails to provide sufficient guidance and working examples on how to make and use naturally occurring variants of SEQ ID NO: 2. Claim 23, as now amended (and from which claims 9-12 currently depend), specifically describes the activity of the polypeptide encoded by the claimed polynucleotide. In view of the specification's guidance and working examples regarding determining these activities in the claimed polynucleotides (see specification, for example, from page 57, line 31, to page 58, line 2, and from page 74, line 6, to page 77, line 5), the Examiner will appreciate that the specification provides one skilled in the art with the necessary guidance to make and use the sequences encoding naturally occurring neuromedin U receptors with the claimed activity.

In addition, claims 23 and 32 stand rejected for lack of enablement with respect to the NCIMB deposit 41066 as follows: 1) the Examiner requests appropriate information attesting to the deposit's satisfaction of the conditions included in 37 C.F.R. §§ 1.801-1.809; and 2) the Examiner requests amendment to the specification to recite the date of the deposit, the complete name and address of the depository, and the accession number of the deposited cell line. Applicant notes that this deposit-related basis for rejection first appeared in the Office Action mailed September 17, 2003 and was not necessitated by Applicant's amendment of the claims or submission of an information disclosure statement (see M.P.E.P. § 706.07(a)). Enclosed herewith, as requested by the Examiner, is a statement by the undersigned attorney of record stating that the deposit has been accepted by an International Depository Authority under the provisions of the Budapest Treaty, that all restrictions upon public access to the deposits will be irrevocably removed upon grant of a patent on this application, and that the deposit will be replaced if viable samples cannot be dispensed by the depository. Applicant notes that the specification, as originally filed, recites the date of deposit, the complete name and address of the depository, and the accession number of the deposit (see specification, at page 69, lines 7-16). Accordingly, there is no need for the amendment to the specification as requested by the Examiner.

Therefore, withdrawal of the finality of the rejection with respect to claims 23 and 32, entry of the amendment hereinabove, and reconsideration of the Office Action mailed September 17, 2003 are respectfully requested.

4. Written Description.

Claims 9-12 and 23 stand rejected, under 35 U.S.C. § 112, first paragraph, for inadequate written description. The Examiner rejects these claims for on the basis that the previously-added claim limitation "functional" is too ambiguous to limit the scope of the claims and to describe the invention. While Applicant does not agree with this rejection, and points to the specification, from page 74, line 6, to page 77, line 5, for support for the detailed use of the term "functional," Applicant has revised claim 23 to remove any appearance of ambiguity and to describe the claimed polynucleotide as encoding a polypeptide that mediates, in HEK-293 cells transfected with and expressing said polynucleotide, a specific, neuromedin U-induced increase in intracellular calcium following contact with neuromedin U.

As the Examiner will appreciate, the specification provides adequate written description of the claimed polynucleotide, as currently amended, by providing definitive structural (95% identity) and functional (neuromedin U-specific increase in intracellular calcium) description (see specification, for example, from page 74, line 26, to page 77, line 5) such that one skilled in the art could readily identify a polynucleotide encompassed by the claims and recognize that Applicant was in possession of the claimed genus. Accordingly, entry of the amendment hereinabove and reconsideration of the Office Action mailed September 17, 2003 are respectfully requested.

5. Claim objection.

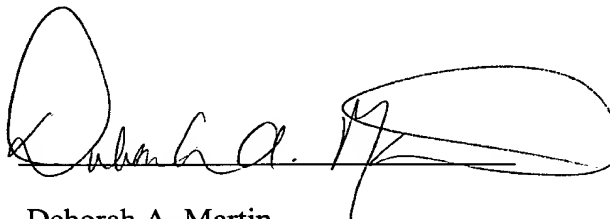
Claim 12 is objected to as being in improper form for not referring to other claims in the alternative only. Claim 12 has been amended to refer only to claim 23. Accordingly, entry of the amendment hereinabove and reconsideration of the Office Action mailed September 17, 2003 are respectfully requested.

6. Applicant believes that the amendments hereinabove place the Application in condition for immediate allowance. Therefore, withdrawal of the finality of rejection (as further discussed in the Enablement section), entry of the amendment hereinabove, and reconsideration of the Office Action mailed September 17, 2003 are respectfully requested. Such prompt and favorable action is earnestly solicited.

Respectfully submitted,

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